

## REMARKS

This Amendment is submitted in reply to the final Office Action mailed on May 17, 2007. No fee is due with this Amendment. The Director is authorized to charge any additional fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-514 on the account statement.

Claims 1-20 are pending in this application. Claims 1-20 are rejected under 35 U.S.C. §102(b). For the reasons set forth below, Applicants respectfully request that the rejections be withdrawn.

Independent Claims 1 and 17 recite, in part, a heating attachment for improving uniformity of microwave heating of a food product in a container, comprising a shield of microwave-reflective material and a cradle configured for attaching the shield to the container in an operative association in which the container is disposed in a heating space surrounded by the shield such that the shield improves the uniformity of microwave heating of a food product within the container, the heating attachment sufficiently surrounding the container in the operative association to capture the container for promoting breakage of the heating attachment when the container is removed therefrom.

In the Office Action, Claims 1-4, 9 and 11-19 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,416,304 to De La Cruz et al. ("*De La Cruz*"). Applicants respectfully disagree with and traverse this rejection for at least the reasons set forth below.

*De La Cruz* fails to disclose or suggest that the heating attachment sufficiently surrounds the container in operative association to capture the container for promoting breakage of the heating attachment when the container is removed therefrom as required, in part, by independent Claims 1 and 17. The Patent Office asserts that due to the "frustoconical shape" of the device disclosed in *De La Cruz*, the device would capture the container within and would need to be torn apart to remove the container. See, Office Action, page 3, lines 3-15. Applicants respectfully submit that this assertion misinterprets *De La Cruz*.

Referring the Figure 3, there is indeed provided a reflective device 38 substantially similar to the device 10 of the first embodiment (see Figure 1) except that the device 38 is provided with a frustoconical shape, with the sides sloping inward relative to a vertical axis at an

angle between 2.5° and 15°. See, *De La Cruz*, column 5, lines 17-23 and Figure 3. Moreover, a susceptor 46 is provided to transfer heat to the bottom surface of the pizza. Since device 38 is “substantially similar” to the device 10 of the first embodiment, it is clear that device 38, like device 10 of Figure 1, lacks a bottom wall. As a result, it is also clear that susceptor 46 is independent and unconnected to device 38 and that device 38 need only be lifted upward to gain access to the food item 40 contained within. Consequently, contrary to the Patent Office’s assertion, Figure 3 does not depict a heating attachment sufficiently surrounding the container in operative association to capture the container for promoting breakage of the heating attachment when the container is removed therefrom as required by the claims.

Similar to Figure 3, every other embodiment disclosed in *De La Cruz* also allows removal of the food item/container without promoting breakage of the heating attachment. For example, the side walls of Figure 2 are horizontal and the food product can be cooked with the lid removed, thus allowing for removal of the food item by simply lifting the product upward. See, *De La Cruz*, column 5, lines 4-10 and Figure 2. In Figures 4-6, no portion of the heating attachment is above the food product, thus allowing for easy removal of the food item. See, *De La Cruz*, Figures 4-6. Finally, in Figures 13-17, top wall 72 has no microwave-reflective materials or microwave-shielding materials. See, *De La Cruz*, Figures 13-17. Consequently, the microwave-transparent top wall inherently serves no purpose in cooking the food item contained and can be removed to access the food item contained without promoting breakage of the heating attachment.

For at least these reasons, Applicants respectfully submit that *De La Cruz* does not teach, suggest, or even disclose all of the elements of Claims 1-4, 9 and 11-19 and thus, fails to anticipate the claimed subject matter.

In the Office Action, Claims 1, 3-5, 7-11 and 14-20 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,763,790 to McGeehins (“*McGeehins*”). Applicants respectfully disagree with and traverse this rejection for at least the reasons set forth below.

*McGeehins* fails to disclose or suggest a heating attachment comprising a cradle configured for attaching a shield of microwave-reflective material to a container as required, in part, by Claims 1 and 17. The Patent Office asserts that column 1, line 63 recites that the device is for use within a microwave. See, Office Action, page 4, lines 3-5. However, Applicants

respectfully submit that the Patent Office misinterprets *McGeehins*. Even though the container or food item may be used in the microwave, the skirt containing heat-reflective material is for use after an initial microwave cooking step. See, *McGeehins*, column 1, lines 57-66. Specifically, the container and its contents are first placed in the microwave (or other heating device) in order to cook the contents. When the container and contents are removed from the microwave, the skirt is then attached to the container and the resulting assembly is then placed under a grill for grilling of the food stuff, the skirt serving the function of deflecting away the radiated heat from the overhead grill. See, *McGeehins*, column 2, lines 15-25 and 31-36. Moreover, the only microwaveable containers disclosed are plastic containers or trays. See, *McGeehins*, column 1, lines 30-37. In fact, nowhere in *McGeehins* is there disclosed microwave-reflective material in the skirt or container. Instead, *McGeehins* discloses the skirt having heat-reflective material, most likely because the skirt is not designed for microwave use. Consequently, *McGeehins* fails to disclose a heating attachment comprising the microwave-reflective material required by the claims.

*McGeehins* further fails to disclose or suggest that the heating attachment sufficiently surrounds the container in operative association to capture the container for promoting breakage of the heating attachment when the container is removed therefrom. Instead, *McGeehins* is directed toward a heat treatable container provided with a skirt that covers those areas of the tray subjected to heat radiation when the tray is placed under a grill for grilling the products. See, *McGeehins*, Abstract. In *McGeehins*, the skirt is simply placed over a container of food so as to surround the peripheral walls of the container and the top edges of the skirt are folded over the container. Alternatively, the cradle of the present claims receives a container into an interior recess that is defined by base portions, side members and cradle portions. Further, the skirt of *McGeehins* does not capture a container so as to promote breakage of the skirt upon removal of the container therefrom. Instead, the top edges of the skirt may simply be unfolded to remove the container.

For at least these reasons, Applicants respectfully submit that *McGeehins* does not teach, suggest, or even disclose all of the elements of Claims 1, 3-5, 7-11 and 14-20 and thus, fails to anticipate the claimed subject matter.

In the Office Action Claims 1-20 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent Application No. 2003/0189042 to Zhang et al. ("*Zhang*"). Applicants respectfully submit that *Zhang* does not qualify as prior art under 35 U.S.C. §102(b) given its publication date (October 10, 2003) in relation to filing date of the present application (March 3, 2004). Assuming, however, that this was meant to be an anticipation rejection under 35 U.S.C. §102(e), Applicants address the rejection by respectfully disagreeing with and traversing this rejection for at least the reasons set forth below.

*Zhang* fails to disclose or suggest a heating attachment that sufficiently surrounds a container in operative association to capture the container for promoting breakage of the heating attachment when the container is removed therefrom as is required, in part, by Claims 1 and 17. Instead, *Zhang* is directed toward a container for receiving and reheating food in a microwave oven. See, *Zhang*, Abstract. Although *Zhang* discloses a supporting stand comprising a reflective material to nest a container during heating, the stand is arranged to snugly engage the container and nest the container in a "removable" manner. See, *Zhang*, page 4, [0055]. As such, *Zhang* fails to disclose a heating attachment that sufficiently surrounds a container in operative association to capture the container for promoting breakage of the heating attachment when the container is removed.

The Patent Office asserts that because the prior art structure is capable of performing Applicants' intended use, it meets the present claims. However, based on the configuration in *Zhang*, if it were capable of performing Applicants intended use, the embodiment illustrated in Figures 5-7 would not function as intended. This embodiment is predicated on a supporting stand adapted to substantially nest the container in a removable manner and further comprise a leverage means adapted for conveniently and safely disengaging the container from the metal body. See, *Zhang*, pages 4-5, [0055]. In particular, the stand has a body with a "wedge-shaped receiving surface of microwave reflective material arranged to snugly engage the complementary shaped exterior surface of the sidewalls of the container." See, *Zhang*, page 5, [0055]. When functioning, the leverage means will push on the bottom side of the container to lift the container off the body of the receiving surface. If the Patent Office was correct and *Zhang* disclosed a container for promoting breakage of a heating attachment when the container is removed therefrom, the leverage means could not function because the configuration of the

heating attachment would inhibit upward movement of the food container when pushed by the leverage means. This would be completely contrary to the intended use of the invention in *Zhang*, which was provided, as stated above, for a supporting stand adapted to substantially nest the container in a removable manner and further comprise a leverage means adapted for conveniently and safely disengaging the container from the metal body.

In fact, all embodiments described and illustrated in *Zhang* employ the same wedge-shaped receiving surface, meaning that the upper portion of the receiving surface has a larger diameter than the bottom portion. See, *Zhang*, Figures 1-7. As a result, after cooking, the food product is easily removable from the receiving surface because there is both nothing inhibiting the upward removal of the food/container or nothing that need be broken to allow removal of the food/container.

For at least these reasons, Applicants respectfully submit that *Zhang* does not teach, suggest, or even disclose all of the elements of Claims 1-20 and thus, fails to anticipate the claimed subject matter.

Accordingly, Applicants respectfully request that the anticipation rejections with respect to Claims 1-20 be reconsidered and the rejections be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

  
BY \_\_\_\_\_

Robert M. Barrett  
Reg. No. 30,142  
Customer No.: 29157

Dated: July 16, 2007